



December 6, 2001

Mr. Michael D. Chisum
General Counsel
Texas Department of Licensing and Regulation
P.O. Box 12157
Austin, Texas 78711

OR2001-5675

Dear Mr. Chisum:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 155774.

The Texas Department of Licensing and Regulation (the "department") received a written request for the "Builder's Monthly Summary for Units Sold, Leased, or Installed," submitted to the department by Ramtech Building Systems, Inc. ("Ramtech") for the months of January, February, and March of 2001. You have requested a decision from this office pursuant to section 552.305 of the Government Code, which allows governmental bodies to rely on third parties having a privacy or property interest in the information to submit their own arguments as to why the requested information should be withheld from the public.

In accordance with section 552.305(d), the department was required to notify Ramtech of the request and of its right to submit arguments to this office as to why the requested records should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Public Information Act in certain circumstances). An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B).

A representative of Ramtech has timely responded to your notice and contends that the customer and unit information contained in "Section 4 of DLR Form 023 IHB" is excepted from public disclosure under section 552.110 of the Government Code. You have not, however, submitted a copy of "Section 4 of DLR Form 023 IHB" to this office for review.

Consequently, we have no basis on which to conclude that any portion of "Section 4 of DLR Form 023 IHB" is excepted from required public disclosure; accordingly, we do not address the extent to which that information is subject to public disclosure. Furthermore, because Ramtech does not contend that the information you submitted to our office is excepted from public disclosure, we conclude that the submitted information must be released to the requestor in its entirety.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cindy Nettles".

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/RWP/sdk

Ref: ID# 155774

Enc: Submitted documents

c: Ms. Marva Seeton
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(w/o enclosures)

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